

Michigan Judges Association

Founded 1927

February 3, 2011

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Hon. Robert P. Young, Jr., Chief Justice
Michigan Supreme Court
P.O. Box 30052
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RE: ADM File Nos. 2007-17; 2006-38; 2005-11; 2007-18;
2008-10; 2008-11; 2008-32; 2009-29

Dear Chief Justice Young:

The Michigan Judges Association (MJA) held its first meeting of the year on January 25, 2011, in Lansing. At that meeting, the MJA Executive Board, Rules Committee, and Family Law Committee considered the above-referenced proposed amendments. Please find for your reference and consideration, MJA's action and recommendations listed below.

The MJA Board first considered **ADM file no. 2007-17** proposed amendment of Rule 8.121 of the Michigan Court Rules. MJA supports said amendment provided that it makes clear that the amount of any "reasonable attorney fees" awarded pursuant to MCL 500.3148 is not limited to 1/3 of the total benefits and interest awarded. The reason for the clarification is out of concern that if the rule were read to limit fees under Section 3148 to 1/3 of the total of benefits and interest, it would likely limit access to counsel in No Fault PIP cases with smaller or moderate amount of damages and may undermine the purpose of awarding attorney fees where there is an "unreasonable denial of benefits" under MCL 500.3148.

Next, the MJA Board considered **ADM file no. 2006-38**, proposed amendment of Rules 9.100; 8.110; and 8.120 of the Michigan Court Rules. MJA questions the need to change the rules as presently written. However, MJA supports the adoption of Alternative B as proffered by the State Bar of Michigan.

The MJA Board further considered **ADM file no. 2005-11**, proposed amendment of Canon 4 and 5 of the Code of Judicial Conduct. MJA would oppose the adoption of said amendment.

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Additionally, the MJA Board considered **ADM file no. 2007-18**, proposed amendment of Rules 2.117 of the Michigan Court Rules which would allow for an attorney to cease representation by simply sending a letter to the client without the Court's approval once an appearance has been filed. MJA would strenuously oppose the adoption of said amendment in that it would seriously undermine the Court's ability to control its docket.

Likewise, the MJA Board considered **ADM file no. 2008-10**, proposed amendment of Rules 6.425 and 7.210 of the Michigan Court Rules. MJA would oppose the adoption of said amendment where current rules require a Judge to place on the record his or her reasons for departing from the guidelines.

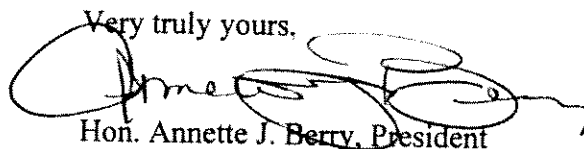
The MJA Board next considered **ADM file no. 2008-11**, proposed amendment of Rule 2.507 of the Michigan Court Rules. MJA would support the adoption of said amendment.

The MJA Board further considered **ADM file no. 2008-32**, proposed amendment of Rule 2.203 of the Michigan Court Rules. MJA would oppose the adoption of said amendment since MCR 2.203 and MCR 2.204 adequately deal with the issue.

Lastly, the MJA Board considered **ADM file no. 2009-29**, proposed amendment of Rule 5.208 of the Michigan Court Rules. MJA would support the adoption of said amendment.

Once again, on behalf of the Michigan Judges Association, I thank you for your time and consideration in the above referenced matters. Please feel free to contact Judge Stutesman, Judge Young, or me should you require any additional information.

Very truly yours,



Hon. Annette J. Berry, President
Michigan Judges Association

AJB/jah

cc: Mr. Corbin R. Davis, Clerk of the Michigan Supreme Court
Hon. Paul E. Stutesman, Rules Committee Chairperson
Hon. Joan E. Young, Family Law Committee Chairperson
Ms. Anne M. Boomer, Administrative Counsel, Michigan Supreme Court ✓
Ms. Elizabeth K. Lyon, Director of Governmental Affairs – State Bar of Michigan